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In this chapter . . .

This chapter discusses the requirements for direct placement, step-parent, relative, and “legal risk” adoptions. All four types of adoptions have the same requirements as any other adoption, except as indicated in this chapter. This chapter is intended to supplement the information provided in other chapters. Appropriate cross-references are provided.

Although step-parent adoption is discussed in this chapter, it does not contain discussion of terminating parental rights pursuant to a step-parent adoption. Information regarding termination of parental rights pursuant to a step-parent adoption can be found in Section 2.13.

This chapter discusses adoption attorneys and adoption facilitators in detail, including the requirements and responsibilities of both.

8.1 Direct Placement Adoptions

A “direct placement” is defined in the Adoption Code as “a placement in which a parent or guardian selects an adoptive parent for a child, other than a stepparent or an individual related to the child within the fifth degree by marriage, blood, or adoption,* and transfers physical custody of the child to the prospective adoptive parent.” MCL 710.22(n).

*See Sections 8.3 and 8.4 for information on step-parent and relative adoptions.

The procedural and documentary requirements for a direct placement adoption are the same as those for other types of adoptions, with a few exceptions. This section discusses the *additional* procedural and documentary requirements.

See Appendix A for the Kalamazoo County Circuit Court, Family Division checklist for direct placements and the Oakland County Circuit Court, Family Division information sheet entitled “Direct Placement Adoptions.”

A. Selection of Adoptive Parent by Parent or Guardian

In a direct placement, the parent or guardian must personally select the prospective adoptive parent. The selection may not be delegated. MCL 710.23a(2). Once a parent has selected a prospective adoptive parent, the parent may directly place the child with that person by making either a temporary or formal placement. MCL 710.23a(1) provides:

“A parent or guardian having legal and physical custody of a child may make a direct placement of the child for adoption by making a temporary placement under [MCL 710.23d] or a formal placement under [MCL 710.51]. A temporary placement becomes a formal placement when the court orders the termination of the rights of the parent or parents or the guardian and approves placement pursuant to [MCL 710.51]. A formal placement under [MCL 710.51] does not have to be preceded by a temporary placement.”

Section 5.1 discusses temporary placements made pursuant to MCL 710.23d and Section 6.1 discusses formal placements made pursuant to MCL 710.51. A direct placement adoption that occurs through a temporary placement must meet all of the requirements contained in Section 5.1 and a direct placement adoption that occurs through a formal placement must meet all of the requirements contained in Section 6.1. In addition, MCL 710.23d(1)(b) provides that in a direct placement adoption, the parent or guardian making the temporary placement *must* be assisted by an adoption attorney or a child placing agency.

B. Adoption Attorney or Agency Assistance

In a direct placement, the parent or guardian must be assisted by an adoption attorney *or* a child placing agency. MCL 710.23d(1)(b). In order to represent a party in a direct placement adoption, the attorney must be an adoption attorney. An attorney or law firm must not serve as the attorney for, or provide legal services to, both a parent or guardian and a prospective adoptive parent. MCL 710.55a(1).

A child placing agency is a private organization licensed under the Child Care Organizations Act, MCL 722.111 et seq., to place children for adoption. MCL 710.22(j).

Note: The court may *not* refuse to accept an adoption petition because it was not prepared by an attorney. Const 1963, art 1, § 13.

Note: Nothing in the Adoption Code prevents an agency from representing both birth parents and adoptive parents. However, the fact that the agency is representing both parties should be disclosed to both the birth parents and the adoptive parents. In addition, it is a good practice to assign a separate worker for each set of parents.

Minor Parent. MCL 710.55a(2) provides:

“In a direct placement or agency placement adoption, if the minor parent of a child who is a potential adoptee is not represented by an attorney, the adoption attorney or child placing agency that is providing adoption services involving that minor parent shall provide the minor parent with an opportunity to discuss with an attorney who is not associated with the adoption attorney or child placing agency the legal ramifications of a consent or release, or of the termination of parental rights, before the execution of a consent or release or the termination of parental rights.”

When a parent or guardian is selecting an adoptive parent, the child placing agency or adoption attorney must allow the parent or guardian the option of selecting from the adoption attorney’s or agency’s entire pool of suitable* potential adoptive parents. MCL 722.957(3).

C. Exchange of Information

Prior to a direct placement, the prospective adoptive parent, the adoption attorney, or the child placing agency must provide the adoptee’s parent or guardian with information about the prospective adoptive parent. MCL 710.23a(3). The information provided must include the specific information contained in a preplacement assessment.*

MCL 710.23a(3) also provides that the information supplied to the parent or guardian “may include additional information requested by the parent or guardian. The information does not have to include identifying information* described in [MCL 710.27(3)]. The parent or guardian and the prospective adoptive parent shall determine whether to exchange identifying information and whether to meet each other.”

*Parents that have been determined suitable pursuant to MCL 710.23f. See Section 5.2(C) for more information on determination of suitability.

*See Section 5.2 for the information contained in preplacement assessments.

*See Section 9.5 regarding identifying information.

*See Section 6.1 for the specific requirements of MCL 710.27(1)–(3).

Identifying and Nonidentifying Information. Prior to placing a child for adoption, the parent or guardian that places a child must compile and provide to the prospective adoptive parent a written document containing nonidentifying information. MCL 710.27(1)–(3).^{*} MCL 710.27(4) provides that in a direct placement adoption, the parent or guardian must transmit the nonidentifying information required by MCL 710.27(1) to MCL 710.27(3) to the court prior to the termination of parental rights.

Nothing in MCL 710.27, which provides for the compilation and distribution of nonidentifying information, prevents a parent or guardian and a prospective adoptive parent from exchanging identifying information or meeting pursuant to MCL 710.23a or 710.23b. MCL 710.27(7).

D. Required Additional or Different Documentation

In general, direct placements have the same documentary requirements as any other adoption. However, specific provisions of the Adoption Code alter the requirements when the adoption is a direct placement adoption.

1. Verified Statements

*See Section 6.1 for the required contents of the verified statements.

MCL 710.54(7) provides that at least seven days prior to formal placement of a child, a verified statement of the attorney for each petitioner and a verified statement of the attorney for each parent must be filed with the court.^{*} In a direct placement, the verified statements of the attorney for each petitioner and each parent of the adoptee must contain the following additional language:

*See Section 8.2.

“The attorney meets the requirements for an adoption attorney under [MCL 710.22]. [The requirements for an adoption attorney were found unconstitutional by the attorney general. OAG, 1995, No 6844 (April 6, 1995).^{*}]

*See Section 10.2 for information on compensation for adoption services.

“The attorney did not request or receive any compensation^{*} for services described in [MCL 710.54(2)].” MCL 710.54(7)(b)–(c).

A parent or guardian and the petitioners must also submit verified statements with the court. See Appendix B for the SCAO form “Parent’s or Guardian’s Verified Accounting for Adoption Release or Direct Placement Consent.”

2. Adoption Petition

*See Section 4.6 for petition requirements.

In a direct placement adoption, the adoption petition must meet the requirements provided in MCL 710.24.^{*} In addition, MCL 710.24(5) provides:

“In a direct placement in which the parties have elected not to exchange identifying information, the information required by subsection (2)(f) and (g) and the surname and place of residence of the adoptee required under subsection (2)(b) may be omitted. The

attorney or child placing agency assisting in the adoption shall file a verified statement containing the omitted information.”

Subsection (2)(f) requires the adoption petition to contain the names of the adoptee’s parents and each living parent’s place of residence if known. Subsection (2)(g) requires the adoption petition to contain the name and place of residence of the adoptee’s guardian if one has been appointed.

See Appendix B for the SCAO form “Petition for Direct Placement Adoption.”

3. Preplacement Assessment

The Adoption Code requires a preplacement assessment with a finding of suitability prior to an adoptive placement.* In a direct placement adoption, the petitioner must attach the following to a petition for adoption:

- ♦ a copy of the preplacement assessment with a finding of suitability that was completed within one year before the petition was filed;
- ♦ copies of all other preplacement assessments of the petitioners if any others have been completed;
- ♦ if applicable, a verified statement indicating that no other preplacement assessments have been completed on the petitioner;
- ♦ an explanation of any preplacement assessment that was started but not completed; and
- ♦ if the petition is seeking review of a finding of unsuitability,* the petitioner must also attach a copy of the preplacement assessment and application for review. MCL 710.24(4).

4. Counseling Services

In a direct placement adoption, the petitioner must also attach to the petition a verified statement certifying that he or she has been informed of the availability of counseling services and has or has not received counseling. MCL 710.24(3).

See Appendix B for the SCAO form “Petition for Direct Placement Adoption.” Line 11 provides a space for the petitioner to indicate that he or she has received information on the availability of counseling and either has or has not received counseling.

*See Section 5.2 for information on preplacement assessments.

*See Section 5.2(D) for information on reviewing the suitability of an adoptive parent.

E. Supervision of Placement

MCL 710.52(2) provides:

“In a direct placement, the child shall be supervised during the period before entry of the order of adoption by the child placing agency that investigated the placement under [MCL 710.46]* or, in the court’s discretion, by another child placing agency.”

*See Section 5.5 for information on MCL 710.46, which discusses investigation reports.

8.2 Requirements for Attorneys and Adoption Facilitators

A. Adoption Attorney

“Adoption attorney” is defined by MCL 710.22(b) as:

“an attorney acting as counsel in a direct placement adoption who meets all of the following requirements:

(i) Has completed at least 12 hours of continuing education in this state during the past 5 years in courses integrating the legal and social aspects of adoption.

(ii) Maintains an up-to-date file of individuals licensed or registered under either the public health code, Act No. 368 of the Public Acts of 1978, being sections 333.1101 to 333.25211 of the Michigan Compiled Laws, or the occupational code, Act No. 299 of the Public Acts of 1980, being sections 339.101 to 339.2721 of the Michigan Compiled Laws, and agencies to whom referrals may be made for counseling services needed by an adoption client.

(iii) Has registered as an adoption attorney with the children’s ombudsman as provided in section 5 of the foster care and adoption services act, Act No. 203 of the Public Acts of 1994 being sections 722.951 to 722.960 of the Michigan Compiled Laws.”

The Foster Care and Adoption Services Act, MCL 722.951 et seq., also requires adoption attorneys to register with the children’s ombudsman. MCL 722.955 provides:

“Before providing services in a direct placement adoption as provided under the adoption code, an attorney shall register with the children’s ombudsman by filing with the children’s ombudsman a verified statement that the attorney is in compliance with all the requirements for an adoption attorney prescribed by

[MCL 710.22]. An attorney who wishes to continue providing adoption services shall reregister with the children’s ombudsman as provided in this section at least once every 5 years. An adoption attorney may request to be removed from the registry at any time.”

Note: In OAG, 1995, No 6844 (April 6, 1995) the attorney general indicated that the additional requirements for “adoption attorneys” set forth in the Adoption Code and the Foster Care and Adoption Services Act violate the Michigan Constitution. The attorney general stated that “[t]he power to regulate attorneys has been reposed in the Michigan Supreme Court”; therefore, the legislature acted outside of its authority in trying to regulate “adoption attorneys.”

B. Adoption Facilitator

The term “adoption facilitator” is not defined in the Adoption Code. However, the Foster Care and Adoption Services Act, MCL 722.951 et seq., defines an “adoption facilitator” as “a child placing agency or an adoption attorney.” MCL 722.952(d).

MCL 722.956(1) requires adoption facilitators to provide clients with services, pamphlets, written documentation, and information. Adoption facilitators must also meet with adoptive parents and insure prospective adoptive parents complete orientation programs. MCL 722.956(1)(d) and (g).

The information required under MCL 722.956(1) must be provided without cost to the parent, guardian, or prospective adoptive parent. MCL 722.956(2).

1. Services

Pursuant to MCL 722.956(1)(a), an adoption facilitator must:

“Provide a client with needed services related to adoption, including postadoption services, or make referrals to available resources in the community.* The adoption facilitator shall emphasize the importance and availability of counseling for all parties to an adoption and explain that the prospective adoptive parent is required to pay for counseling for the birth parent or guardian unless the birth parent or guardian waives the counseling.”

*See Appendix F for a list of adoption support groups.

Adoption facilitators may not refuse to provide services to a potential adoptive parent based solely on age, race, religious affiliation, disability, or income level. MCL 722.957(1). However, an adoption facilitator may consider religious affiliation if the facilitator is a private child placing agency operated, supervised, or controlled by a religious institution or organization

that limits services or gives preference to an applicant of the same religion. MCL 722.957(2).

2. Pamphlets and Written Documentation

Adoption facilitators must provide to individuals who inquire about adoption services the pamphlet describing the adoption process prepared by the FIA pursuant to MCL 400.115m. See Appendix J for the FIA publication “Adopting a Child in Michigan.”

Pursuant to MCL 722.956(1)(c), adoption facilitators must prepare and provide to each person who inquires about adoption services a document that contains all of the following:

“(i) Types of adoptions the adoption facilitator handles.

“(ii) A description of the services that the adoption facilitator provides.

“(iii) A description of services that are available by referral.

“(iv) Eligibility requirements the adoption facilitator has for adoptive families, if any.

“(v) If the adoption facilitator is a child placing agency, the procedure used, or range of options the agency offers, for selecting a prospective adoptive parent for a child, including the role of the child’s parent or guardian in the selection process.

“(vi) The extent to which the adoption facilitator permits or encourages the exchange of identifying information* or contact between biological and adoptive parents.

“(vii) A description of postfinalization services that the adoption facilitator provides, if any.

“(viii) A schedule of all fees that the adoption facilitator charges for adoption services.*

“(ix) A statement that each party to an adoption has a right to independent representation by an attorney and that 1 attorney may not represent both the biological parents or guardian and the prospective adoptive parents.”

MCL 722.956(1)(e) requires that the adoption facilitator:

*See Section 9.5 regarding identifying information.

*See Section 10.2 for information on consideration for adoption services.

“Provide a prospective adoptive parent with written copies, other than those portions made confidential by state or federal law,* of all of the following regarding the prospective adoptee:

(i) If not already provided under [MCL 710.27], the adoptee’s nonidentifying information as listed and described by [MCL 710.27(1)] and [MCL 710.27(2)].*

(ii) The petition or petitions that resulted in each placement of the child.

(iii) Initial and all updated case service plans concerning the child that were compiled during each foster care placement, whether in foster care, adoption, or otherwise.”

No later than the time of the preadoptive or adoptive placement, the adoption facilitator must provide to the prospective adoptive parent written verification that all of the information described in MCL 722.956(1)(e) has been provided to the prospective adoptive parent. MCL 722.956(1)(f).

3. Orientation

Adoption facilitators must insure that each prospective adoptive parent completes an orientation program consistent with requirements for orientation programs developed under administrative rules by the FIA. MCL 722.956(1)(d).

4. Conference

In addition to providing the pamphlet described in Section 8.2(B)(2), the adoption facilitator must review the information contained in the pamphlet with an adoption client. The adoption facilitator must make sure the client understands the alternatives available in the adoption process. MCL 722.956(1)(b). The adoption facilitator must also insure that the client understands how to get access to all of the following:

- ♦ The directory of children available for adoption produced by the FIA pursuant to MCL 722.958.
- ♦ The information contained in the registry of adoptive homes maintained by the FIA pursuant to MCL 722.958.
- ♦ The public information forms on adoption facilitators maintained by the FIA pursuant to MCL 722.124d.

*See Section 9.1 for information on the confidentiality of adoption proceedings and records.

*See Section 9.5 for information on nonidentifying information.

MCL 722.956(1)(g) provides that prior to placement the adoption facilitator must also hold a conference with a prospective adoptive parent and do all of the following during the conference:

“(i) Review and discuss the information provided to the prospective adoptive parent under [MCL 722.956(1)(e)].

“(ii) Disclose to the prospective adoptive parent all other information known by or available to the adoption facilitator regarding the adoptee’s medical and psychological needs.

“(iii) Prepare and provide to the prospective adoptive parent a list of the adoptee’s medical and psychological needs that are identified and discussed during the conference.

“(iv) Prepare written verification for the signatures of the adoption facilitator and the prospective adoptive parent that the conference was held as required by this subdivision, and provide a copy of this written verification to the prospective adoptive parent.”

In *In re Leach*, 373 Mich 148, 149 (1964), the adoptive parents filed a petition to set aside an adoption based upon alleged fraud by the court caseworker. The adoptive parents claimed that the caseworker failed to inform them of the adoptee’s mental illness prior to the adoption. 373 Mich at 150. The lower court denied the petition and indicated that it was not in the best interests of the adoptee to set aside the adoption. 373 Mich at 151. The Michigan Supreme Court upheld the lower court’s decision and indicated that if any fraud could be found in the caseworker’s actions, it was not sufficient to compel the court to overturn the adoption. 373 Mich at 152.

MCL 722.956(1)(g) is an attempt to avoid the situation presented in *Leach, supra*, by mandating the disclosure of the adoptee’s medical and psychological needs.*

*See Section 7.8 for information on rescission of an adoption.

5. Selection of a Prospective Adoptive Parent

When a parent or guardian participates in the selection of the adoptive parent, the adoption facilitator must allow the parent or guardian the option of selecting from the adoption facilitator’s entire pool of potential adoptive parents who have been determined suitable to be adoptive parents of adoptees. MCL 722.957(3).

6. Primary Adoption Facilitator’s Filing of Public Information Forms

Not later than ten days after the entry of an adoption order, the primary adoption facilitator must file with the court a completed public information form. MCL 722.124c(1). MCL 722.124c does *not* apply to step-parent or relative adoptions, or to an adoption where the consent* of the court or the FIA was required.

*See Section 2.6 for information on consents.

A “primary adoption facilitator” is defined in MCL 722.124b(d) as “the adoption facilitator in an adoption who files the court documents on behalf of the prospective adoptive parent.”

Contents. Pursuant to MCL 722.124d(1)(a)–(o), the FIA is responsible for developing a public information form to report the following nonconfidential information:

“(a) The name and address of the primary adoption facilitator.

“(b) The type of adoption, as follows:

(i) Direct placement* or agency placement.

*See Section 8.1 for information on direct placements.

(ii) Intrastate, interstate, or intercountry.*

*See Sections 4.4 and 4.5 for information on interstate and international adoptions.

“(c) The name of the agency and individual who performed the preplacement assessment* or the investigation required under [MCL 710.46], and the cost of the assessment or investigation.

*See Section 5.2 for information on preplacement assessments.

“(d) The name of each individual who performed counseling services for a biological parent, a guardian, or the adoptee; the individual’s agency affiliation, if any; the number of hours of counseling performed; and the cost of that counseling.

“(e) The name of each individual who performed counseling services for an adoptive parent, the individual’s agency affiliation, if any, the number of hours of counseling performed, and the cost of that counseling.

“(f) The total amount paid by an adoptive parent for hospital, nursing, or pharmaceutical expenses incurred by a biological parent or the adoptee in connection with the birth or any illness of the adoptee.

“(g) The total amount paid by an adoptive parent for a biological mother’s living expenses.

“(h) The total amount paid by an adoptive parent for expenses incurred in ascertaining the information required under [MCL 710.27].*

*MCL 710.27 provides for the collection of nonidentifying information. See Section 6.1(B).

“(i) The name of any attorney representing an adoptive parent, the number of hours of service performed in connection with the

adoption, and the total cost of the attorney's services performed for the adoptive parent.

“(j) The name of any attorney representing a biological parent, the number of hours of service performed in connection with the adoption, and the total cost of the attorney's services performed for the biological parent.

“(k) The name of any agency assisting a biological parent or adoptive parent, and the cost of all services provided by the agency other than services specifically described in subdivisions (c), (d), and (e).

“(l) The total amount paid by an adoptive parent for a biological parent's travel expenses.

“(m) Any fees or expenses sought but disallowed by the court.

“(n) The total amount of all expenses connected with the adoption that were paid for by the adoptive parent.

“(o) An explanation of any special circumstances that made costs of the adoption higher than would normally be expected.”

In addition to the foregoing information, the public information form must contain a detachable section for reporting all of the following *confidential* information:

“(a) The age, sex, and race of each biological parent.

“(b) The age, sex, and race of the adoptee.

“(c) The name, age, sex, and race of each adoptive parent.

“(d) The county in which the final order of adoption was entered.

“(e) The county, state, and country of origin of the adoptee.

“(f) The legal residence of biological parents.

“(g) The legal residence of adoptive parents.

“(h) The dates of the following actions related to the adoption:

(i) The first contact of the birth parent with the primary adoption facilitator.

(ii) The first contact of the adoptive parent with the primary adoption facilitator.

(iii) The temporary placement,* if applicable.

*See Section 5.1 for information on temporary placements.

(iv) The formal placement.*

*See Section 6.1 for information on formal placements.

(v) The order of the court finalizing the adoption.” MCL 722.124d(2).

Primary Adoption Facilitator Responsibilities. Within 10 days after an adoption order is entered, the primary adoption facilitator must file the public information form with the court. MCL 722.124c(1) provides:

“Not later than 10 days after the entry of an order of adoption pursuant to [MCL 710.56], the primary adoption facilitator for that adoption shall file with the [Family Division of the Circuit Court] a completed public information form setting forth information including costs connected with the adoption as prescribed by [MCL 722.124d]. The public information form shall be authenticated by verification under oath by the primary adoption facilitator, or, in the alternative, contain the following statement immediately above the date and signature of the facilitator: ‘I declare that this public information form has been examined by me and that its contents are true to the best of my information, knowledge, and belief.’”

Court Processing. MCL 710.58a(1) requires that not later than 15 days after the entry of an order of adoption pursuant to MCL 710.56, the court must forward to the FIA either of the following:

“(a) A public information form filled out and filed with the court by the primary adoption facilitator and completed by the court as provided in [MCL 710.58a(2)].

“(b) If the primary adoption facilitator has not filed a form, a public information form completed by the court that consists only of the name of the primary adoption facilitator and the confidential information as prescribed by [MCL 722.124d].”

MCL 710.58a(2) provides:

“If the primary adoption facilitator has filed a public information form with the court and has indicated that he or she does not have access to certain information required on the public portion of the form, the court shall complete the form by filling in missing information that is contained in court records to which the primary adoption facilitator does not have access. The court shall complete

all public information forms filed with the court by filling in the information required on the confidential portion of the form.”

The FIA accepts the public record forms from the court and maintains the information. Upon request, the FIA must provide information on adoption facilitators gathered from public information forms. See MCL 722.124d(4) for more information on requests for information on adoption facilitators.

8.3 Step-Parent Adoption

The unique nature of a step-parent adoption requires different procedures for the adoption process. The following subsections detail the different procedures for step-parent adoptions contained in the Adoption Code. This section does not discuss termination of parental rights pursuant to a step-parent adoption. See Section 2.13 for information on termination of parental rights pursuant to a step-parent adoption.

The primary purpose of the step-parent adoption statute “is ‘to foster step-parent adoptions in families where the natural parent had regularly and substantially failed to support or communicate and visit with the child.’” *In re Stowe*, 162 Mich App 27, 30-31 (1987), quoting *In re Colon*, 144 Mich App 805, 810 (1985).

See Appendix A for the following documents and checklists regarding step-parent adoption:

- “Instructions to Attorney for Stepparent, Relative or Adult Adoption Petitions,” provided by the Oakland County Circuit Court, Family Division, Adoption Services.
- “Stepparent Adoptions,” provided by the Oakland County Circuit Court, Family Division, Adoption Services.
- “Step-Parent Petition to Identify and Terminate Rights,” provided by the Kalamazoo County Circuit Court, Family Division.
- “Step-Parent/Supplemental-Non-Custodial Checklist” provided by the Kalamazoo County Circuit Court, Family Division.

A. Step-Parent Placement

MCL 710.41* provides requirements that must be met in order to place a child for adoption, including the requirement that a child may not be placed prior to the termination of parental rights. The conditions for placing a child contained in MCL 710.41 do *not* apply in step-parent adoptions. MCL 710.41(4).

*See Section 6.1 for information on MCL 710.41.

A parent or guardian having legal and physical custody of a child may make a formal placement of the child for adoption under MCL 710.51* with a stepparent. MCL 710.23a(4).

*See Section 6.1 for information on formal placements.

See Appendix A for the checklist “Step-Parent Placement Checklist” provided by the Kalamazoo County Circuit Court, Family Division. See Appendix B for the SCAO form “Order Placing a Child (Step-Parent Adoption).”

B. Consent or Termination of Parental Rights of Noncustodial Parent

A noncustodial parent may consent to adoption of his or her child by a stepparent. MCL 710.43(7). In a step-parent adoption, the parent with legal custody who joins the petitioner in the petition for adoption does not need to execute a consent* to adoption. MCL 710.43(7).

*See Section 2.6 for information on consent to adoption.

MCL 710.51(1) requires the court to terminate parental rights after a consent if it finds the consent was genuine and the adoption is in the adoptee’s best interest. However, the court must *not* enter an order terminating the custodial parent’s rights when the consent was given pursuant to a step-parent adoption. MCL 710.51(5).

MCL 710.51(3) provides that once the court enters an order terminating parental rights, the child becomes a ward of the court. However, when a noncustodial parent’s parental rights are terminated pursuant to a step-parent adoption, the child does not become a ward of the court. MCL 710.51(3).

C. Identifying and Nonidentifying Information

MCL 710.27 requires the collection of nonidentifying and identifying information about the adoptee. The provisions of MCL 710.27 do not apply to step-parent adoptions. MCL 710.27(6). However, it is important to note that requests for identifying and nonidentifying information pursuant to MCL 710.68* still apply to step-parent adoptions. MCL 710.68(17).

*See Section 4.6(G) for information on MCL 710.27. See Section 9.5 for information on MCL 710.68.

D. Grandparent Visitation

During the pendency of a step-parent adoption, the parent of a natural parent may seek an order for visitation with the adoptee as provided in MCL 722.27b.

*See Sections 2.13(C) and 6.7 for information on grandparent visitation.

8.4 Relative Adoption

A relative adoption is an adoption by a person related to the adoptee within the fifth degree by marriage, blood, or adoption. MCL 710.22(w) defines

“within the fifth degree by marriage, blood, or adoption” as any of the following relationships:

“parent, step-parent, grandparent, step-grandparent, brother, step-brother, sister, step-sister, uncle, step-uncle, aunt, step-aunt, first cousin, step-first cousin, great aunt, step-great aunt, great uncle, step-great uncle, great grandparent, step-great grandparent, first cousin once removed, step-first cousin once removed, great great grandparent, step-great great grandparent, great great uncle, step-great great uncle, great great aunt, step-great great aunt, great great great grandparent, or step-great great great grandparent.”

A. Relative Placement

A parent or guardian having legal and physical custody of a child may make a formal placement of the child for adoption under MCL 710.51* with an individual who is related to the child within the fifth degree by marriage, blood, or adoption. MCL 710.23a(4).

See Appendix A for the “Relative Placement Checklist” provided by the Kalamazoo County Circuit Court, Family Division.

B. Identifying and Nonidentifying Information

MCL 710.27 requires the collection of nonidentifying and identifying information about the adoptee. The provisions of MCL 710.27 do not apply to relative adoptions. MCL 710.27(6). However, it is important to note that requests for identifying and nonidentifying information pursuant to MCL 710.68* still apply to relative adoptions. MCL 710.68(17).

See Appendix A for the following documents and checklists regarding step-parent adoption:

- “Instructions to Attorney for Stepparent, Relative or Adult Adoption Petitions,” provided by the Oakland County Circuit Court, Family Division, Adoption Services.
- “Relative Adoption Requirements” provided by the Oakland County Circuit Court, Family Division, Adoption Services.

8.5 “Legal Risk” Placements

“Legal risk” placements, more commonly referred to as “legal risk adoptions,” occur when a child is placed for adoption during one of the following:

*See Section 6.1 for information on formal placements.

*See Section 4.6(G) for information on MCL 722.27. See Section 9.5 for information on MCL 710.68.

- ♦ the 21-day period for filing a petition for a rehearing,*
- ♦ the period during which an appeal of right* may be filed,
- ♦ the period during which a petition for or decision on a rehearing is pending, or
- ♦ the period during which an appeal is pending. MCL 710.41.

*See Section 7.2 for information on rehearings.

*See Section 7.4 for information on appeals.

Note: The period during which an appeal is pending includes appeals pending in the Court of Appeals and the Supreme Court. *In re JK*, 468 Mich 202, 219 (2003). The court may *not* enter an adoption order while a parent's appeal is pending in the Court of Appeals or the Supreme Court.

If a child is placed for a “legal risk” adoption, the FIA, the child placing agency, or the court must inform the prospective adoptive parents that the adoption petition will not be granted until one of the following occurs:

- ♦ The petition for rehearing is granted, at the rehearing the order terminating parental rights is not modified or set aside, and subsequently the period for appeal as of right to the court of appeals has expired without an appeal being filed.
- ♦ The petition for rehearing is denied and the period for appeal as of right has expired without an appeal being filed.
- ♦ There is a decision of the court of appeals affirming the order terminating parental rights. MCL 710.41(2)(a)–(c).

See Appendix B for the SCAO form “Notice to Adopting Parents on Pending or Potential Appeal/Rehearing.”

Note: A “legal risk placement” or a “legal risk adoption” as referred to in this section, does *not* refer to an “at risk” adoption. In *In re JK*, 468 Mich 202, 209 (2003), the trial court granted an adoption while a timely application for leave to appeal was filed in the Supreme Court. The Supreme Court noted that the county designated the adoption, which occurred prior to the expiration of the appeals, as an “at risk” adoption. 468 Mich at 217, n25. The term “at risk” denoted the risk that the Supreme Court might vacate the order terminating parental rights. The Supreme Court reversed the order terminating parental rights and determined that the adoption was therefore invalid. 468 Mich at 219. The Supreme Court explicitly disapproved of “at risk” adoptions. 468 Mich at 217, n25.

However, as referred to in this section, a “legal risk placement” or “legal risk adoption” denotes the *placement* of a child prior to the expiration of the appeals period; *no* adoption order is entered prior to the expiration of the appeals period.